



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

JUL 1 2011

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Robert Malnight, Plant Manager
Valero Renewable Fuels Company, LLC
203 West County Road 1100 North
Linden, Indiana 47955

Re: Notice of Violation
Valero Renewable Fuels Company
Linden, Indiana

Dear Mr. Malnight:

This is to advise you that the U.S. Environmental Protection Agency has determined that Valero Renewable Fuels Company, LLC (Valero or you) has violated the Clean Air Act (CAA) at its Linden, Indiana, facility (Facility).

EPA is issuing this Notice of Violation (NOV) in accordance with Section 113(a)(1) of the CAA, 42 U.S.C. § 7413(a)(1) to Valero by exceeding the allowable nitrogen oxides (NO_x) emission limits at thermal oxidizer systems CE003 and CE006 (including 4 DDGS dryers EU039, EU040, EU042, and EU043) at the Facility. In addition, Valero operated thermal oxidizer systems CE003 and CE006 at the Facility below their required 3-hour average temperature of 1510 °F and 1516 °F. Valero's NO_x emission limits and 3-hour average temperature requirements are established in the New Source Review and Federally Enforceable State Operating Permit (FESOP) for the Facility. Valero's failure to comply with the Facility's FESOP limits violates 40 C.F.R. § 52.23 and the Indiana State Implementation Plan.

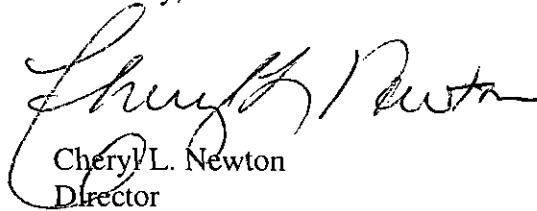
Section 113 of the CAA gives us several enforcement options to resolve these violations, including: issuing an administrative compliance order; issuing an administrative penalty order; and bringing a judicial civil or criminal action.

This conference will give you an opportunity to present information on the specific findings of violation, any efforts you have taken to comply and the steps you will take to prevent future violations.

Please plan for the Facility's technical and management personnel to attend the conference to discuss compliance measures and commitments. You may have an attorney represent you at this conference.

The EPA contact in this matter is Manoj P. Patel. You may call him at (312)353-3565 to request a conference. You should make the request within 10 calendar days following receipt of this letter, and we should hold any conference within 30 calendar days following receipt of this letter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Cheryl L. Newton".

Cheryl L. Newton
Director

Air and Radiation Division

Enclosure

cc: Phil Perry, Chief
Compliance and Enforcement Branch
Office of Air Quality
Indiana Department of Environmental Management

3. Title V of the CAA, 42 U.S.C. §§ 7661-7661f, and its implementing regulations at 40 C.F.R. Part 70, establish an operating permit program for certain sources (Part 70 Sources), including “major sources.”

4. Pursuant to 40 C.F.R. § 70.1(b) and Ind. Admin. Code tit. 326, r. 2-7-2(a) & (d), all sources subject to the Title V operating permit program, including "major sources," shall have a permit to operate that assures compliance by the source with "all applicable requirements."
5. Pursuant to Section 501(2)(B) of the CAA, 42 U.S.C. § 7661, 40 C.F.R. § 70.2, and Ind. Admin. Code tit. 326, r. 2-7-1, a "major source" is defined, in part, as any stationary source that directly emits or has the potential to emit one hundred tons per year or more of any air pollutant.
6. Pursuant to Ind. Admin. Code tit. 326, r. 2-7-2(g), a Part 70 Source that has received a permit under the Enhanced New Source Review (NSR) provisions of Ind. Admin. Code tit. 326, r. 2-1-3.2 by the date a Part 70 permit application would be required for the source, is exempt from the requirement to obtain a Part 70 permit.

Federally Enforceable State Operating Permits

7. On June 28, 1989, EPA issued guidance on federally enforceable state operating permits (FESOP) establishing federally enforceable limits. *See* 54 Fed. Reg. 27274.
8. On October 25, 1994, the Indiana Department of Environmental Management (IDEM) submitted to EPA a proposed revision to the Indiana SIP establishing a FESOP program in Indiana (set forth at Ind. Admin. Code tit. 326, r. 2-8).
9. On August 18, 1995, EPA approved the Indiana FESOP program, Ind. Admin. Code tit. 326, r. 2-8, as part of the federally enforceable Indiana SIP, effective October 17, 1995. *See* 60 Fed. Reg. 43008-43012, and 40 C.F.R. § 52.770(c)(97).
10. The Indiana FESOP program provides that a source required to have a Title V operating permit pursuant to Ind. Admin. Code tit. 326, r. 2-7-2(a), may apply to IDEM for a FESOP.
11. Pursuant to Ind. Admin. Code tit. 326, r. 2-7-2(b)(5), a "major source" may become a "nonmajor source" (a.k.a. a "FESOP source") by obtaining a FESOP; a State operating permit which creates federally enforceable limitations at the facility on the potential to emit of certain pollutants regulated under the CAA by EPA. *See also* Ind. Admin. Code tit. 326, r. 2-8-1.
12. Pursuant to Ind. Admin. Code tit. 326, r. 2-7-2(b)(5), a "non major source" is not required to obtain a Title V operating permit under Ind. Admin. Code tit. 326, r. 2-7.
13. Ind. Admin. Code tit. 326, r. 2-8-4(1) requires that all FESOP permits contain emission limitations and standards assuring compliance with all applicable requirements in effect at the time of the FESOP issuance.
14. Pursuant to Ind. Admin. Code tit. 326, r. 2-8-6(b), all terms and conditions in a FESOP, including any provisions designed to limit a source's potential to emit, are enforceable under the CAA by EPA.

Enhanced New Source Review

15. On October 25, 1994, IDEM submitted to EPA a proposed revision to the Indiana SIP establishing Indiana's Enhanced NSR regulations providing a source with the opportunity to satisfy its Indiana Title V operating permit requirements by opting into the Indiana Enhanced NSR construction permit process set forth at Ind. Admin. Code tit. 326, r. 2-1-3.2.
16. The proposed Indiana SIP revision would allow IDEM to integrate requirements determined during preconstruction NSR permit review with those required under Title V. *See* 40 C.F.R. § 52.770 (c)(98).
17. On August 18, 1995, EPA approved Indiana's Enhanced NSR regulations, Ind. Admin. Code tit. 326, r. 2-1-3.2 as part of the federally enforceable Indiana SIP, effective October 17, 1995. *See* 60 Fed. Reg. 43008-43012, and 40 C.F.R. § 52.770 (c)(98).
18. Pursuant to Ind. Admin. Code tit. 326, r. 2-1-3.2(a), any Part 70 Source required to have an operating permit under Ind. Admin. Code tit. 326, r. 2-7-2, that is required to obtain a construction permit from IDEM, may elect that its construction permit application be subject to the Enhanced NSR regulations.
19. Pursuant to Ind. Admin. Code tit. 326, r. 2-1-3.2(a), sources that are eligible for and intend to obtain a FESOP shall be subject to the permit application, permit content, and permit issuance requirements and procedures established in Ind. Admin. Code tit. 326, r. 2-8, except as otherwise provided in Ind. Admin. Code tit. 326, r. 2-1-3.2.
20. Ind. Admin. Code tit. 326, r. 2-1-3.2(c) requires that permits issued under Indiana's Enhanced NSR regulations to a Part 70 Source that has been issued a FESOP under Ind. Admin. Code tit. 326, r. 2-8, include the permit requirements of Ind. Admin. Code tit. 326, r. 2-8-4.
21. Pursuant to Ind. Admin. Code tit. 326, r. 2-1-3.2(h), for any source subject to FESOP under Ind. Admin. Code tit. 326, r. 2-8, a permit issued under Indiana's Enhanced NSR construction permit process shall become the source's FESOP. For any modification subject to 326 IAC 2-8-11, a permit issued under Indiana's Enhanced NSR construction permit process shall be incorporated into the source's FESOP through an administrative amendment in accordance with 326 IAC 2-8-10. The FESOP shall be deemed to be effective as of the date of the approval of the administrative amendment.

Indiana SIP for Volatile Organic Compounds Control

22. On February 20, 2008, EPA approved a revision to the Indiana SIP consisting of an amendment to Ind. Admin. Code tit. 326, r. 8-5 adding a volatile organic compounds (VOC) rule for fuel grade ethanol production at dry mills. *See* 73 Fed. Reg. 9201-9203, and 40 C.F.R. § 52.770(c)(182).

23. Ind. Admin. Code tit. 326, r. 8-5-6(c) requires that the owner or operator of a fuel grade ethanol dry mill production plant that was constructed or modified after April 1, 2007, shall install and operate at least one of the following control devices for VOC emissions from the plant: (1) a thermal oxidizer of not less than 98% efficiency, or resulting in a VOC concentration of not more than ten parts per million (ppm); (2) a wet scrubber with overall control efficiency of not less than 98%, or resulting in a VOC concentration of not more than 20 ppm; or (3) an enclosed flare with an overall control efficiency of not less than 98%.
24. Ind. Admin. Code tit. 326, r. 8-5-6(e) requires that the owner or operator of a fuel grade ethanol dry mill production plant that was constructed or modified after April 1, 2007, that installs and operates a thermal oxidizer as its VOC control device shall measure the 3-hour average operating temperature of the oxidizer using a continuous temperature monitor. The 3-hour average temperature must be greater than or equal to the minimum operating temperature established during the plant's most recent compliance demonstration.

Facility Background

25. Valero Renewable Fuels Company, LLC (Valero) owns and operates a fuel grade ethanol dry mill production facility at 203 West County Road 1100 North, Linden, Indiana (Facility).
26. Valero is a "person," as that term is defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e).
27. The Facility includes: two natural gas-fired dried distillers grains with soluble (DDGS) dryers (identified as EU039 and EU040), with emissions controlled by a thermal oxidizer and heat recovery steam generating (HRSG) system (identified as CE003 and exhausting to stack EP003); and two natural gas-fired DDGS dryers (identified as EU042 and EU043), with emissions controlled by a thermal oxidizer and HRSG system (identified as CE006 and exhausting to stack EP003).
28. The Facility has the potential to emit more than 100 tons per year of nitrogen oxides (NO_x).
29. On February 8, 2006, IDEM issued FESOP No. F107-21453-00061 (with conditions) to the previous owner of the Facility, ASA Ethanol Linden under the Indiana Enhanced NSR construction permit process set forth at Ind. Admin. Code tit. 326, r. 2-1-3.2.
30. FESOP No. F107-21453-00061 limited the Facility's NO_x emissions to less than 100 tons per year.
31. FESOP No. F107-21453-00061 resulted in the Facility becoming a "nonmajor source" which was not required to obtain a Title V operating permit under Ind. Admin. Code tit. 326, r. 2-7.

32. On December 28, 2010, IDEM renewed FESOP No. F107-29252-00061 (the FESOP), and issued it to Valero.
33. The FESOP incorporated revisions to the Indiana SIP consisting of the VOC rule for fuel grade ethanol production at dry mills, and established the following permit conditions:
 - (a) NO_x emissions from thermal oxidizers systems CE003 and CE006 (including four DDGS dryers EU039, EU040, EU042, and EU043), shall not exceed 21.45 pounds of nitrogen oxides (NO_x) per hour.
 - (b) On and after the date of stack test results are available, [Valero] shall operate the thermal oxidizers, CE003 and CE006, at or above the 3-hour average temperatures as observed during the latest compliance stack tests. Thermal oxidizers CE003 and CE006 achieved the 3-hour average temperature of 1510⁰F and 1516⁰F, respectively, during the latest compliance stack tests.
34. On October 19, 2010, EPA inspected the facility. During the inspection, EPA requested copies of stack tests performed by Valero, records of hourly NO_x emissions from the thermal oxidizers, CE003 and CE006, and records of the combustion chamber temperatures for thermal oxidizers CE003 and CE006.
35. On March 22, June 3 and 15, 2011, Valero submitted the information EPA requested during the October 19, 2010 inspection.

Violations

36. From March 10, 2010 through January 11, 2011, the hourly NO_x emissions from the thermal oxidizers CE003 and CE006 exceeded the Facility's permitted NO_x limit of 21.45 pounds per hour required by Valero's FESOP. Valero therefore violated Ind. Admin. Code tit. 326, r. 2-8-6(b), and 40 C.F.R. § 52.23 from March 10, 2010 through January 11, 2011.
37. From March 10, 2010 through January 11, 2011, Valero operated thermal oxidizer systems CE003 and CE006 below the 3-hour average temperatures of 1510⁰F (CE003) and 1516⁰F (CE006); the minimum operating temperature established during the Facility's most recent compliance demonstration. Valero therefore violated Ind. Admin. Code tit. 326, r. 8-5-6(e), Ind. Admin. Code tit. 326, r. 2-8-6(b), and 40 C.F.R. § 52.23 from March 10, 2010 through January 11, 2011.

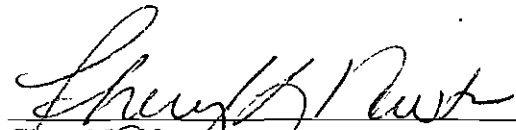
Enforcement Authority

38. Whenever, on the basis of any information available to the Administrator, the Administrator finds that any person has violated or is in violation of any requirements or prohibition of any applicable implementation plan or permit, the Administrator shall notify the person and the State in which the plan applies of such finding. *See* Section 113 of the Act, 42 U.S.C. §7413.

39. Section 113(a)(1) of the CAA, 42 U.S.C. § 7413(a)(1), provides that any time after the expiration of 30 days following the date of the issuance of a Notice of Violation, the Administrator may, without regard to the period of violation, issue an order requiring compliance with the requirements of the applicable SIP, issue an administrative penalty order pursuant to Section 113(d), or bring a civil action pursuant to Section 113(b) for injunctive relief and/or civil penalties.
40. Pursuant to 40 C.F.R. § 52.23, a person who fails to comply with any permit condition issued in accordance with a SIP-approved installation permit or with any approved regulatory provision of a SIP, is in violation of and subject to an enforcement action under Section 113 of the Act.

Date

7/1/11



Cheryl L. Newton
Director

Air and Radiation Division

CERTIFICATE OF MAILING

I, Tracy Jamison, certify that I sent a Notice of Violation, No. EPA-5-11-IN-07, by

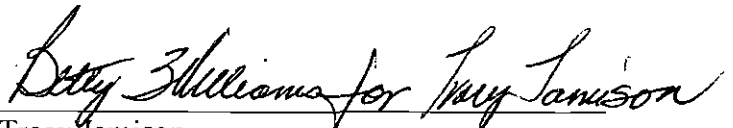
Certified Mail, Return Receipt Requested, to:

Robert Malnight, Plant Manager
Valero Renewable Fuels Company, LLC
203 West County Road 1100 North
Linden, Indiana 47955

I also certify that I sent copies of the Notice of Violation by first-class mail to:

Phil Perry, Chief
Compliance and Enforcement Branch
Office of Air Quality
Indiana Department of Environmental Management
100 North Senate Avenue, room 1GCN 1003
Indianapolis, Indiana 46206-6015

On the 6th day of July 2011.


Tracy Jamison
Office Automation Assistant
AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER: 7009168000076666367